

KC FILED

FEB 26 2008
2-26-2008
MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURTUNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
CHICAGO, ILLINOIS

Mohammed Abdul Aleem)

PLAINTIFF,)

V.)

No.:

A# 96 162 945

Michael Chertoff, as the Director
of the Department of Homeland Security;)
Emilio Gonzalez, Director of U.S.)
Citizenship and Immigration Services;)
Gerald Heinauer, Director of U.S.)
Citizenship and Immigration Services at)
the Nebraska Service Center; and)
Robert S. Mueller, Director of the)
Federal Bureau of Investigation,)

DEFENDANTS.)

08cv1169
JUDGE LEINENWEBER
MAGISTRATE JUDGE COXPETITION FOR A RULING PURSUANT TO 8 U.S.C. SEC. 1361

The Plaintiff, Mohammed Abdul Aleem, by and through his attorney, Mazher M. Shah-Khan, respectfully requests for an order directing the Defendant to make a determination under 8 U.S.C. Sec. 1255, and also seek relief under the Administrative Procedure Act 5 U.S.C. Sec. 555(b) and 706(1), and declaratory relief under 28 U.S.C. Sec. 2201, following the Plaintiff's employment based adjustment application, which was filed more than five years ago. In support of said request, the Plaintiff states as follows:

JURISDICTION AND VENUE

1. This is a civil action brought pursuant to 8 U.S.C. Sec. 1255 to redress the deprivation of rights, privileges and immunities secured to the Plaintiff, by which statutes jurisdiction is conferred, to compel the Defendant to perform a duty the Defendant owes to the Plaintiff.

2. Venue is also proper under 8 U.S.C. Sec. 1391(e), the Plaintiff is a resident of Illinois, and the Defendant is the Director of the Department of Homeland Security, which oversees the Citizenship and Immigration Services (CIS), an agency of the United States Government.

PARTIES

3. The Plaintiff, Mohammed Abdul Aleem, is a citizen of India, who has filed an application to adjust to lawful permanent resident based on approved Immigrant Petition for Alien Worker (I-140). His alien registration number is A96 162 945.
4. The Defendant is the Director of the Department of Homeland Security, which oversees the U.S. Citizenship and Immigration Services (USCIS); and, Director of the Federal Bureau of investigation (FBI). As such, they are charged with the duty of administration and enforcement of all the functions, powers and duties of CIS and FBI.

CLAIMS FOR RELIEF

5. That the Plaintiff, a citizen of India, applied for adjustment of status to a lawful permanent resident with the Defendant, the former Immigration and Naturalization Service, on December 30, 2002. The adjustment application was based on an approved Immigrant Petition for Alien Worker. (See the Attached Exhibits, A and B).
6. Over five years have passed since the Plaintiff applied for adjustment of status, and yet, no further determination has been made to date. The attached copy of Immigrant Petition for Alien Worker (I-140) has a priority date of April 26, 2001; and, as regards EB-3 categories for India, the priority date is August 1, 2001. (See attached visa bulletin printout from the Department of State's website, Exhibit C). In addition, according to the U.S. Citizenship and Immigration Service's website, the processing date for employment based adjustment applications, Nebraska Service Center, is July 19, 2007. (See attached printout of processing dates from the Service's website, Exhibit D).
7. The Plaintiff made numerous inquiries through his attorney, through the Honorable Congresswoman Janice D. Schakowsky's office, and on his own to no avail. (See the attached Group Exhibit E.)
8. According to the Interoffice Memorandum of USDHS/USCIS's Michael Aytes, Associate Director, Domestic Operations, Field Leaders have been directed to approve and proceed with card issuance of applications for adjustment of statuses, where the FBI name check has been pending for more than 180 days. (Please see

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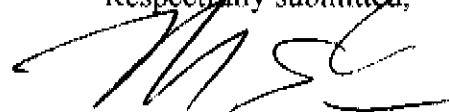
attached Exhibit F). The Plaintiff's name check has been pending since September 2003 and no determination has yet been made by the Defendant. A copy of the correspondence with Congresswoman Schakowsky's office evidencing the date of initiation of the name check has been attached as Exhibit E.

9. The Plaintiff has exhausted any administrative remedies that may exist.

WHEREFORE, the Plaintiff prays that the Court:

- A. Compel the Defendant and those acting under him to perform their duty to make a determination under 8 U.S.C. Sec. 1255, for relief under the Administrative Procedure Act 5 U.S.C. Sec. 555(b) and 706(1), and declaratory relief under 28 U.S.C. Sec. 2201, following the Plaintiff's application for lawful residency filed more than five years ago.
- B. Grant him attorney's fees and cost associated with filing this complaint.
- C. Grant him such other and further relief as this Honorable Court deems to be Just in equity.

Respectfully submitted,



Mazher M. Shah-Khan
Attorney for the Plaintiff

Mazher M. Shah-Khan
The Law Office of Mazher M. Shah-Khan
Attorney for the Petitioner
2906 W. Peterson Ave., Suite A
Chicago, IL 60659

(773) 764-2500

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CERTIFICATE OF SERVICE

I, Mazher M. Shah-Khan, hereby certify that I caused a true copy of the foregoing **Petition for a Ruling Pursuant to 8 U.S.C. Sec. 1255, 5 U.S.C. Sec. 555(b) and 706(1), and 28 U.S.C. Sec. 2201** to be served upon each of the following, *via* Fedex, on February 2008:

Office of the General Counsel
U.S. Department of Homeland Security
Washington, DC 20528

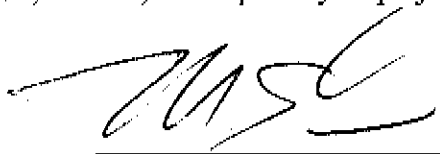
U.S. Citizenship & Immigration Services
U.S. Department of Homeland Security
Office of the Chief Counsel
20 Massachusetts Ave., N.W. Room 4025
Washington, DC 20536

Attorney General
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, DC 20530-0001

Assistant United States Attorney
Office of the General Counsel
219 South Dearborn Street
Chicago, IL 60604

Robert S. Mueller, Director
Federal Bureau of Investigation
800 F. Street Northwest
Washington, DC 20004

I, Mazher M. Shah-Khan, declare, under penalty of perjury, that the foregoing is true and correct.


Mazher M. Shah-Khan

2/22/08
Date

Mazher M. Shah-Khan
Law Offices of Mazher M. Shah-Khan, P.C.
P.O. Box 597315
Chicago, Illinois 60659-7315

(773) 764-2500

A

Notice of Action

Immigration and Naturalization Service

THE UNITED STATES OF AMERICA

| | | |
|---|----------------|---|
| RECEIPT NUMBER LIN-03-079-50822 | | CASE TYPE 1485 APPLICATION TO ADJUST TO PERMANENT RESIDENT STATUS |
| RECEIVED DATE December 30, 2002 | PRIORITY DATE | APPLICANT A96 162 945 ALEEM, MOHAMMED A. |
| NOTICE DATE January 10, 2003 | PAGE 1 of 1 | |
| MAZHER M. SHAH KHAN ESQ LAW OFFICES OF MAZHER M SHAH KHAN 2906 W PETERSON AVE SUITE A CHICAGO IL 60659 | | Notice Type: Receipt Notice Amount received: \$ 1305.00 Section: Adjustment as direct beneficiary of immigrant petition |

The above application or petition has been received. It usually takes 150 to 180 days from the date of this receipt for us to process this type of case. Please notify us immediately if any of the above information is incorrect.

We will send you a written notice as soon as we make a decision on this case. You can also use the phone number, 402-323-7830 to obtain case status information direct from our automated system 24 hours a day with a touch-tone phone and the receipt number for this case (at the top of this notice).

If you have other questions about possible immigration benefits and services, filing information, or Immigration and Naturalization Service forms, please call the INS National Customer Service Center (NCSC) at 1-800-375-5283. If you are hearing impaired, please call our TDD at 1-800-767-1833.

If you have access to the Internet, you can also visit the INS at www.ins.usdoj.gov. Here you can find valuable information about forms and filing instructions, and about general immigration services and benefits. At present, this site does not provide case status information.

Please see the additional information on the back. You will be notified separately about any other cases you filed.

NEBRASKA SERVICE CENTER
U. S. IMMIG. & NATZ. SERVICE
P.O. BOX 82521
LINCOLN NE 68501-2521
Customer Service Telephone: 402-323-7830



B

U.S. Department of Justice
Immigration and Naturalization Service

Notice of Action

UNITED STATES OF AMERICA

| | | | |
|--|--|--|--|
| RECEIPT NUMBER LIN-02-282-52520 | | CASE TYPE I140 | |
| RECEIPT DATE September 11, 2002 | | IMMIGRANT PETITION FOR ALIEN WORKER | |
| PRIORITY DATE April 26, 2001 | | PETITIONER October 8, 2002 | |
| NOTICE DATE October 8, 2002 | | BENEFICIARY ALEEM, MOHAMMED A. | |
| PAGE 1 of 1 | | | |
| MAZHER M. SHAH KHAN ATTY AT LAW 2906 W PETERSON AVE SUITE A CHICAGO IL 60659 | | Notice Type: Approval Notice Section: Skilled Worker or Professional, Sec.203(b)(3)(A)(i) or (ii) Consulate: NEW DELHI | |

The above petition has been approved. The petition indicates that the person for whom you are petitioning is in the United States and will apply for adjustment of status. The evidence indicates that he or she is not eligible to file an adjustment of status application. This determination is based on the information submitted with the petition and any relating files. If the person for whom you are petitioning believes that he or she is eligible for adjustment of status, then he or she should contact the local INS office for more information.

Because the person for whom you are petitioning is not eligible to adjust, we have sent the approved petition to the Department of State National Visa Center (NVC), 32 Rochester Avenue, Portsmouth, NH 03801-2909. The NVC processes all approved immigrant visa petitions that need consular action and also determines which consular post is the appropriate consulate to complete visa processing. The NVC will then forward the approved petition to that consulate.

This completes all INS action on this petition. If you have any questions about visa issuance, please contact the NVC directly. The telephone number to NVC is (603) 334-0700. Please allow 90 days before contacting the National Visa Center regarding your petition.

The NVC will contact the person for whom you are petitioning concerning further immigrant visa processing steps.

THIS FORM IS NOT A VISA NOR MAY IT BE USED IN PLACE OF A VISA.

Please see the additional information on the back. You will be notified separately about any other cases you filed.

NEBRASKA SERVICE CENTER
U. S. IMMIG. & NATZ. SERVICE
P.O. BOX 82521
LINCOLN NE 68501-2521
Customer Service Telephone: 402-323-7830



C

Visa Bulletin

Number 116
Volume VIII
Washington, D.C.

VISA BULLETIN FOR MARCH 2008

A. STATUTORY NUMBERS

1. This bulletin summarizes the availability of immigrant numbers during **March**. Consular officers are required to report to the Department of State documentarily qualified applicants for numerically limited visas; the Bureau of Citizenship and Immigration Services in the Department of Homeland Security reports applicants for adjustment of status. Allocations were made, to the extent possible under the numerical limitations, for the demand received by February **8th** in the chronological order of the reported priority dates. If the demand could not be satisfied within the statutory or regulatory limits, the category or foreign state in which demand was excessive was deemed oversubscribed. The cut-off date for an oversubscribed category is the priority date of the first applicant who could not be reached within the numerical limits. Only applicants who have a priority date **earlier than** the cut-off date may be allotted a number. Immediately that it becomes necessary during the monthly allocation process to retrogress a cut-off date, supplemental requests for numbers will be honored only if the priority date falls within the new cut-off date.

2. Section 201 of the Immigration and Nationality Act (INA) sets an annual minimum family-sponsored preference limit of 226,000. The worldwide level for annual employment-based preference immigrants is at least 140,000. Section 202 prescribes that the per-country limit for preference immigrants is set at 7% of the total annual family-sponsored and employment-based preference limits, i.e., 25,620. The dependent area limit is set at 2%, or 7,320.

3. Section 203 of the INA prescribes preference classes for allotment of immigrant visas as follows:

FAMILY-SPONSORED PREFERENCES

First: Unmarried Sons and Daughters of Citizens: 23,400 plus any numbers not required for fourth preference.

Second: Spouses and Children, and Unmarried Sons and Daughters of Permanent Residents: 114,200, plus the number (if any) by which the worldwide family preference level exceeds 226,000, and any unused first preference numbers:

A. Spouses and Children: 77% of the overall second preference limitation, of which 75% are exempt from the per-country limit;

B. Unmarried Sons and Daughters (21 years of age or older): 23% of the overall second preference limitation.

Third: Married Sons and Daughters of Citizens: 23,400, plus any numbers not required by first and second preferences.

Fourth: Brothers and Sisters of Adult Citizens: 65,000, plus any numbers not required by first three preferences.

EMPLOYMENT-BASED PREFERENCES

First: Priority Workers: 28.6% of the worldwide employment-based preference level, plus any numbers not required for fourth and fifth preferences.

Second: Members of the Professions Holding Advanced Degrees or Persons of Exceptional Ability:

28.6% of the worldwide employment-based preference level, plus any numbers not required by first preference.

Third: Skilled Workers, Professionals, and Other Workers: 28.6% of the worldwide level, plus any numbers not required by first and second preferences, not more than 10,000 of which to "Other Workers".

Fourth: Certain Special Immigrants: 7.1% of the worldwide level.

Fifth: Employment Creation: 7.1% of the worldwide level, not less than 3,000 of which reserved for investors in a targeted rural or high-unemployment area, and 3,000 set aside for investors in regional centers by Sec. 610 of P.L. 102-395.

4. INA Section 203(e) provides that family-sponsored and employment-based preference visas be issued to eligible immigrants in the order in which a petition in behalf of each has been filed. Section 203(d) provides that spouses and children of preference immigrants are entitled to the same status, and the same order of consideration, if accompanying or following to join the principal. The visa prorating provisions of Section 202(e) apply to allocations for a foreign state or dependent area when visa demand exceeds the per-country limit. These provisions apply at present to the following oversubscribed chargeability areas: CHINA-mainland born, INDIA, MEXICO, and PHILIPPINES.

5. On the chart below, the listing of a date for any class indicates that the class is oversubscribed (see paragraph 1); "C" means current, i.e., numbers are available for all qualified applicants; and "U" means unavailable, i.e., no numbers are available. (NOTE: Numbers are available only for applicants whose priority date is earlier than the cut-off date listed below.)

| Family | All Chargeability Areas Except Those Listed | CHINA-mainland born | INDIA | MEXICO | PHILIPPINES |
|--------|---|---------------------|---------|---------|-------------|
| 1st | 15FEB02 | 15FEB02 | 15FEB02 | 01JUL92 | 01MAR93 |
| 2A | 15APR03 | 15APR03 | 15APR03 | 01MAY02 | 15APR03 |
| 2B | 08FEB99 | 08FEB99 | 08FEB99 | 01APR92 | 01FEB97 |
| 3rd | 15MAY00 | 15MAY00 | 15MAY00 | 15JUL92 | 01APR91 |
| 4th | 15JUL97 | 01DEC96 | 01NOV96 | 15NOV94 | 22FEB86 |

***NOTE:** For March, 2A numbers **EXEMPT from per-country limit** are available to applicants from all countries with priority dates **earlier** than 01MAY02. 2A numbers **SUBJECT to per-country limit** are available to applicants chargeable to all countries **EXCEPT MEXICO** with priority dates beginning 01MAY02 and earlier than 15APR03. (All 2A numbers provided for MEXICO are exempt from the per-country limit; there are no 2A numbers for MEXICO subject to per-country limit.)

| | All Chargeability Areas Except Those Listed | CHINA-mainland born | INDIA | MEXICO | PHILIPPINES |
|-------------------------|---|---------------------|---------|---------|-------------|
| Employment-Based | | | | | |
| 1st | C | C | C | C | C |
| 2nd | C | 01DEC03 | U | C | C |
| 3rd | 01JAN05 | 01DEC02 | 01AUG01 | 01MAY01 | 01JAN05 |

| Other Workers | 01JAN02 | 01JAN02 | 01JAN02 | 01JAN02 | 01JAN02 |
|---|---------|---------|---------|---------|---------|
| 4th | C | C | C | C | C |
| Certain Religious Workers | C | C | C | C | C |
| 5th | C | C | C | C | C |
| Targeted Employment Areas/ Regional Centers | C | C | C | C | C |

The Department of State has available a recorded message with visa availability information which can be heard at: (area code 202) 663-1541. This recording will be updated in the middle of each month with information on cut-off dates for the following month.

Employment Third Preference Other Workers Category: Section 203(e) of the NACARA, as amended by Section 1(e) of Pub. L. 105-139, provides that once the Employment Third Preference Other Worker (EW) cut-off date has reached the priority date of the latest EW petition approved prior to November 19, 1997, the 10,000 EW numbers available for a fiscal year are to be reduced by up to 5,000 annually beginning in the following fiscal year. This reduction is to be made for as long as necessary to offset adjustments under the NACARA program. Since the EW cut-off date reached November 19, 1997 during Fiscal Year 2001, the reduction in the EW annual limit to 5,000 began in Fiscal Year 2002.

B. DIVERSITY IMMIGRANT (DV) CATEGORY

Section 203(c) of the Immigration and Nationality Act provides a maximum of up to 55,000 immigrant visas each fiscal year to permit immigration opportunities for persons from countries other than the principal sources of current immigration to the United States. The Nicaraguan and Central American Relief Act (NACARA) passed by Congress in November 1997 stipulates that beginning with DV-99, and for as long as necessary, up to 5,000 of the 55,000 annually-allocated diversity visas will be made available for use under the NACARA program. **This reduction has resulted in the DV-2008 annual limit being reduced to 50,000.** DV visas are divided among six geographic regions. No one country can receive more than seven percent of the available diversity visas in any one year.

For **March**, immigrant numbers in the DV category are available to qualified DV-2008 applicants chargeable to all regions/eligible countries as follows. When an allocation cut-off number is shown, visas are available only for applicants with DV regional lottery rank numbers **BELOW** the specified allocation cut-off number:

| Region | All DV Chargeability Areas Except Those Listed Separately | |
|--------|---|---|
| AFRICA | 18,500 | Except: Egypt: 15,700 Ethiopia: 12,100 Nigeria: 8,750 |
| ASIA | 7,875 | |
| EUROPE | 17,600 | |
| NORTH | | |

D

[Print This Page](#)[Back](#)

U.S. Citizenship and Immigration Services Nebraska Service Center Processing Dates Posted January 15, 2008

The processing times shown below are a tool for our customers to gauge our current processing times. When applications and petitions are completed within our target timeframes, that goal will be shown in the data display.

The processing times shown below are for applications that have just been completed. If you have just filed your application, these timeframes may not reflect how long your application will take to be completed. We encourage you to check this page periodically before inquiring about your case. The processing times are updated monthly.

USCIS has received a significant increase in the number of applications filed. In July and August, nearly 2.5 million applications and petitions of all types were received. This compares to 1.2 million applications and petitions received in the same time period last year. This fiscal year, we received 1.4 million applications for naturalization; nearly double the volume we received the year before. The agency is working to improve processes and focus increased resources, including hiring approximately 1,500 new employees, to address this workload.

As a result, average processing times for certain application types may be longer. In particular, naturalization applications filed after June 1, 2007 may take approximately 16-18 months to process.

We offer a variety of services after you file. For example, for most kinds of cases you can check the status of your case online.

For more information about when and how to contact us, whether your case is outside our processing time or if there are other issues, please see our customer guide –

[Case Services - How do I... know what kind of services are available to me after I file my application or petition?](#)

Service Center Processing Dates for **Nebraska Service Center** Posted January 15, 2008

| Form | Title | Classification or Basis for Filing | Processing Timeframe |
|-------|--|--|----------------------|
| I-90 | Application to Replace Permanent Resident Card | Initial issuance or replacement | November 06, 2006 |
| I-90 | Application to Replace Permanent Resident Card | 10-year renewal | July 16, 2007 |
| I-90A | Application to Replace Permanent Resident Card | Initial issuance or replacement for Special Agricultural Workers (SAW) | July 19, 2007 |
| I-102 | Application for Replacement/Initial | Initial issuance or replacement of a Form I- | August 15, |

| | | | |
|-------|---------------------------------------|---|-------------------|
| | Nonimmigrant Arrival/Departure Record | 94 | 2007 |
| I-129 | Petition for A Nonimmigrant Worker | H-1B - Specialty occupation - Visa to be issued abroad | November 16, 2007 |
| I-129 | Petition for A Nonimmigrant Worker | H-1B - Specialty occupation - Change of status in the U.S. | November 16, 2007 |
| I-129 | Petition for A Nonimmigrant Worker | H-1B - Specialty occupation - Extension of stay in the U.S. | November 16, 2007 |
| I-129 | Petition for A Nonimmigrant Worker | H-2A - Temporary workers | December 31, 2007 |
| I-129 | Petition for A Nonimmigrant Worker | H-2B - Other temporary workers | December 16, 2007 |
| I-129 | Petition for A Nonimmigrant Worker | H-3 - Temporary trainees | November 16, 2007 |
| I-129 | Petition for A Nonimmigrant Worker | L - Intracompany transfers | December 16, 2007 |
| I-129 | Petition for A Nonimmigrant Worker | Blanket L | November 16, 2007 |
| I-129 | Petition for A Nonimmigrant Worker | O - Extraordinary ability | November 16, 2007 |
| I-129 | Petition for A Nonimmigrant Worker | P - Athletes, artists, and entertainers | November 16, 2007 |
| I-129 | Petition for A Nonimmigrant Worker | Q - Cultural exchange visitors and exchange visitors participating in the Irish Peace process | November 16, 2007 |
| I-129 | Petition for A Nonimmigrant Worker | R - Religious occupation | November 16, 2007 |
| I-129 | Petition for A Nonimmigrant Worker | TN - North American Free Trade Agreement (NAFTA) professional | November 16, 2007 |
| I-131 | Application for Travel Document | Permanent resident applying for a re-entry permit | June 08, 2007 |
| I-131 | Application for Travel Document | Refugee or asylee applying for a refugee travel document | June 08, 2007 |
| I-131 | Application for Travel Document | Haitian Refugee Immigrant Fairness Act (HRIFA) principal applying for advance parole | August 15, 2007 |
| I-131 | Application for Travel Document | Haitian Refugee Immigrant Fairness Act (HRIFA) dependent applying for advance parole | April 20, 2007 |
| I-131 | Application for Travel Document | All other applicants for advance parole | August 15, 2007 |
| I-140 | Immigrant Petition for Alien Worker | Extraordinary ability | November 16, 2006 |
| I-140 | Immigrant Petition for Alien Worker | Outstanding professor or researcher | February 20, 2007 |
| I-140 | Immigrant Petition for Alien Worker | Multinational executive or manager | January 18, |

| | | | |
|-------|--|---|-------------------|
| | | | 2007 |
| I-140 | Immigrant Petition for Alien Worker | Schedule A Nurses | November 01, 2006 |
| I-140 | Immigrant Petition for Alien Worker | Advanced degree or exceptional ability | April 23, 2007 |
| I-140 | Immigrant Petition for Alien Worker | Advanced degree or exceptional ability requesting a National Interest Waiver | November 01, 2006 |
| I-140 | Immigrant Petition for Alien Worker | Skilled worker or professional | January 22, 2007 |
| I-140 | Immigrant Petition for Alien Worker | Unskilled worker | December 18, 2006 |
| I-212 | Application for Permission to Reapply for Admission into the U.S. After Deportation or Removal | Readmission after deportation or removal | April 17, 2007 |
| I-360 | Petition for Amerasian, Widow(er), or Special Immigrant | All other special immigrants | July 19, 2007 |
| I-485 | Application to Register Permanent Residence or to Adjust Status | Employment-based adjustment applications | July 19, 2007 |
| I-485 | Application to Register Permanent Residence or to Adjust Status | Based on grant of asylum more than 1 year ago | October 01, 2006 |
| I-485 | Application to Register Permanent Residence or to Adjust Status | Based on refugee admission more than 1 year ago | January 01, 2007 |
| I-485 | Application to Register Permanent Residence or to Adjust Status | Under the Haitian Refugee Immigrant Fairness Act (HRIFA) | July 19, 2007 |
| I-485 | Application to Register Permanent Residence or to Adjust Status | Under the Indochinese Adjustment Act | July 19, 2007 |
| I-539 | Application to Extend/Change Nonimmigrant Status | Change of status to H or L dependents | June 01, 2007 |
| I-539 | Application to Extend/Change Nonimmigrant Status | Change status to the F or M academic or vocational student categories | June 01, 2007 |
| I-539 | Application to Extend/Change Nonimmigrant Status | Change Status to the J exchange visitor category | June 01, 2007 |
| I-539 | Application to Extend/Change Nonimmigrant Status | All other change of status applications | June 01, 2007 |
| I-539 | Application to Extend/Change Nonimmigrant Status | Extension of stay for H and L dependents | June 01, 2007 |
| I-539 | Application to Extend/Change Nonimmigrant Status | Extension of Stay for F or M academic or vocational students | June 01, 2007 |
| I-539 | Application to Extend/Change Nonimmigrant Status | Extension of Stay for J exchange visitors | June 01, 2007 |
| I-539 | Application to Extend/Change Nonimmigrant Status | All other extension applications | June 01, 2007 |
| I-612 | Application for Waiver of the Foreign Residence Requirement | Application for a waiver of the 2-year foreign residence requirement based on exceptional hardship or persecution | May 01, 2007 |
| | | Petition for accompanying family members | October 02, |

E

JANICE D. SCHAKOWSKY
9TH DISTRICT, ILLINOIS

COMMITTEE ON ENERGY AND COMMERCE

CHIEF DEPUTY WHIP

1027 LONGWORTH HOUSE OFFICE BUILDING
Telephone: 202-225-2111
Fax: 202-225-6890
TTY: 202-225-1904

Congress of the United States
House of Representatives
Washington, DC 20515-1309

December 4, 2007

5013 N. BROADWAY, SUITE 2
CHICAGO, IL 60640
Telephone: 773-506-7100
Fax: 773-506-9202

820 DAVIS STREET, SUITE 105
EVANSTON, ILLINOIS 60201
Telephone: 847-328-3409
Fax: 847-328-3425

1420 RENAISSANCE DRIVE, SUITE 102
PARK RIDGE, IL 60088
Telephone: 847-298-2128
Fax: 847-298-2173

Mr. Mohammed Aleem
955 W. Foster Ave. Apt. 301
Chicago, Illinois 60640

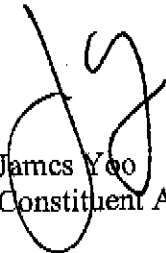
Dear Mr. Aleem:

Our office received a response to the Congressional Inquiry we launched with the Federal Bureau of Investigation (FBI) on your behalf. Enclosed, please find a copy of the letter from the Section Chief of the National Name Check Program, Mr. Michael A. Cannon.

According to the response, the FBI received a Name Check Request on March 9, 2003. As the FBI requires additional time to complete this process, our office can submit another inquiry with the FBI after 90 days from the date of their response (February 30th). Please contact me after February 30th in order to submit a follow-up inquiry with the FBI.

If you have any further questions or comments, please contact me at (773) 506-7100. Thank you for your patience.

Sincerely,



James Yoo
Constituent Advocate

Enclosure

-----Original Message-----

From: FBI NAME CHECK

Sent: Friday, November 30, 2007 1:09 PM

To: Yoo, James

Subject: FBI Name Check

It is requested that you do not send messages back to this email account nor provide this email address outside of your office.

Please advise constituents that the FBI does not expedite name check requests. The customer agency determines the expedited handling of name checks.

I am responding to your facsimile inquiries of **October 26, 2007**, concerning the name check status of your constituents for immigration purposes.

A review of the Federal Bureau of Investigation's (FBI's) Name Check Program (NCP) database concerning your constituents revealed that the requests were received as indicated below from the United States Citizenship and Immigration Services (USCIS). This list provides the name of the constituent and date of receipt along with the current status:

| <u>Name</u> | <u>Received</u> | <u>Status</u> |
|----------------|-----------------|---------------|
| Mohammed Aleem | 03/09/2003 | In process |

The FBI processes millions of name check requests each year with each requiring thoughtful consideration. We know how important this information must be to your constituent; however, the FBI must also balance the need for national security in preparing the response to each of these requests. The FBI's homeland security mission requires that our name check process be primarily focused on an accurate and thorough result. While an exact date for completion of this review cannot be given, your constituent may be assured that the results will be made available to the immigration authorities as quickly as possible.

I trust this information will assist you in responding to your constituent. Should you have further questions, please refer to the FBI's internet site, www.fbi.gov. This site provides excellent information on the name check process.

Sincerely,

Michael A. Cannon/gl
Section Chief
National Name Check Program
Records Management Division
Federal Bureau of Investigation

-----Original Message-----

From: Congressional, Nebraska

Sent: Tuesday, February 20, 2007 3:13 PM

To: Popchun, Hector

Subject: cap: 26885: RE: I-485 (IL)

**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

Mohammed Aleem

I-485/ A 96-162-945/ DOB: 01/24/1953 - COB: Ind

PUBLIC COPY

Hi,

The electronic record shows the priority date of the I140 to be 04.26.01. Visas appear to be current for this petition however, the FBI name check has been pending since 09.03.03.

Sincerely,

[REDACTED]
Congressional Liaison
Department of Homeland Security
Nebraska Service Center
Congressional Phone: [REDACTED]
Congressional Fax: [REDACTED]

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**Law Offices of
Mazher M. Shah-Khan, P.C.**

2906 W. Peterson Ave. Suite A, Chicago, IL 60659
Tel: 773-764-2500
Fax: 773-764-7200

December 7, 2007

United States Department of Homeland Security
U.S. Citizenship & Immigration Services
Nebraska Service Center
P.O. Box 87485
Lincoln, NE 68501

Re: Mr. Mohammed Abdul Aleem, I-485 Application for Adjustment of Status
Alien No.: A96 162 945

Dear Sir or Madam:

I am writing to follow up on the application for adjustment status of the above referenced. My client, Mr. Aleem, filed for adjustment of status based on an approved I-40 petition and his petition has been pending since December 30, 2002. (Please see attached copy of I-140 and I-485 receipt notices). Mr. Aleem is a citizen and national of India.

Mr. Aleem's priority date is now current. As regards employment based categories for India, petitions filed on or before May 1, 2001 are currently being processed. (Please see attached printout of visa bulletin for employment based categories). Mr. Aleem's priority date is April 26, 2001. As can be seen from the attached visa bulletin, the priority date for the processing of Mr. Aleem's adjustment application is now current.

We, therefore, respectfully request the Service to process Mr. Aleem's adjustment application and issue his Lawful Permanent Resident Card. Enclosed also please find a copy of Notice of Entry of Appearance as Attorney (G-28).

If you have any questions, or need further information, please feel free to contact our office.

Thank you for your cooperation in this matter.

We look forward to a favorable response soon.

Very Truly Yours,



Mazher M. Shah-Khan, Esq.

MSK-ty

Encls.

**Law Offices of
Mazher M. Shah-Khan, P.C.**

2906 W. Peterson Ave, Suite A, Chicago, IL 60659
Tel: 773-764-2500
Fax: 773-764-7200

January 2, 2007

United States Department of Homeland Security
U.S. Citizenship & Immigration Services
Nebraska Service Center
P.O. Box 87485
Lincoln, NE 68501

Re: Mr. Mohammed Abdul Aleem, I-485 Application for Adjustment of Status
Alien No.: A96 162 945

Dear Sir or Madam:

I am writing to follow up on the application for adjustment status of the above referenced. My client, Mr. Aleem, filed for adjustment of status based on an approved I-40 petition and his petition has been pending since December 30, 2002. (Please see attached copy of I-140 and I-485 receipt notices). Mr. Aleem is a citizen and national of India.

Mr. Aleem's priority date is now current. As regards employment based categories for India, petitions filed on or before May 8, 2001 are currently being processed. (Please see attached printout of visa bulletin for employment based categories). Mr. Aleem's priority date is April 26, 2001. As can be seen from the attached visa bulletin, the priority date for the processing of Mr. Aleem's adjustment application is current as of January 1, 2007.

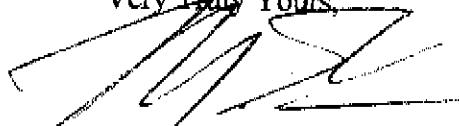
We, therefore, respectfully request the Service to process Mr. Aleem's adjustment application and issue his Resident Card.

If you have any questions, or need further information, please feel free to contact our office.

Thank you for your cooperation in this matter.

We look forward to a favorable response soon.

Very Truly Yours,



Mazher M. Shah-Khan, Esq.

MSK-ty

Encls.

F

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Domestic Operations of Directorate
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

FEB 4 - 2008

HQ 70/23 & 70/28.1

Interoffice Memorandum

TO: Field Leadership

FROM: Michael Aytes 
Associate Director, Domestic Operations

SUBJECT: Revised National Security Adjudication and Reporting Requirements

Background

U.S. Citizenship and Immigration Services (USCIS) conducts background checks on all applicants, petitioners, and beneficiaries seeking immigration benefits. This is done both to enhance national security and to ensure the integrity of the immigration process. USCIS has previously mandated that FBI name checks be completed and resolved before any positive adjudication can proceed on certain form types. This memorandum modifies existing guidance for applications where statutory immigration provisions allow for the detention and removal of an alien who is the subject of actionable information that is received from the FBI or other law enforcement agencies after approval of the application.

USCIS is issuing revised guidance in response to recommendations of the DHS Office of Inspector General (OIG-06-06) regarding the need to align the agency's background and security check policies with those of U.S. Immigration and Customs Enforcement (ICE). The *Background and Security Investigations in Proceedings Before Immigration Judges and the Board of Immigration Appeals* regulations prevent immigration judges and the Board of Immigration Appeals (BIA) from granting benefits to aliens before DHS confirms that all background and security checks have been completed. See 8 C.F.R. § 1003.47(g); 8 C.F.R. § 1003.1(d)(6)(i). In the context of removal proceedings, ICE has determined that FBI fingerprint checks and Interagency Border Inspection Services (IBIS) checks are the required security checks for purposes of the applicable regulations. In the unlikely event that FBI name checks reveal actionable information after the immigration judge grants an alien permanent resident status, DHS may detain and initiate removal proceedings against the permanent resident. See 8 U.S.C. § 1227; see also 8 U.S.C. § 1256 (allowing DHS to rescind an alien's adjustment of status).

Revised National Security Adjudication and Reporting Requirements

Page 2

Revised Guidance

A definitive FBI fingerprint check and the IBIS check must be obtained and resolved before an Application for Adjustment of Status (I-485), Application for Waiver of Ground of Inadmissibility (I-601), Application for Status as a Temporary Resident Under Section 245A of the Immigration and Nationality Act (I-687), or Application to Adjust Status from Temporary to Permanent Resident (Under Section 245A of Public Law 99-603) (I-698) is approved. USCIS will continue to initiate FBI name checks when those applications are received. Where the application is otherwise approvable and the FBI name check request has been pending for more than 180 days, the adjudicator shall approve the I-485, I-601, I-687, or I-698 and proceed with card issuance. The FBI has committed to providing FBI name check results within this timeframe.

There is no change in the requirement that FBI fingerprint check, IBIS check and FBI name check results be obtained and resolved prior to the adjudication of an Application for Naturalization (N-400).

Pending further guidance regarding post-audit reporting and tracking requirements and modifications to associated quality assurance procedures, applications approved pursuant to this memorandum shall be held at the adjudicating office. If derogatory or adverse information is received from the FBI after the application is approved, USCIS will determine if rescission or removal proceedings are appropriate and warranted.

Subject to the reporting requirements set forth in the February 16, 2007, memorandum titled "FBI Name Checks Policy and Process Clarification for Domestic Operations," an application or petition may be denied, dismissed, administratively closed, withdrawn, or referred to the Immigration Court at any time.

Questions regarding this memorandum should be directed through appropriate supervisory and operational channels. Local offices should work through their chain of command.

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